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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.3263/2006

CORAM: Hon'ble Shri S.R.Nayak, C. J. &
Hon'ble Shri D.R.Deshmukh, J.

Petitioner	:	P. Ramlingeshwar Rao, S/o. Shri P. Pappa Rao, aged about 40 years, R/o Nayapara, Ganesh Nagar, Bilaspur (C.G.).
		Versus
Respondents	:	1. Union of India, through its General Manager, South Eastern Central Railway, Bilaspur (C.G.)
	:	2. The Division Railway Manager, South Eastern Railway, Bilaspur (C.G.)
	:	3. Sr. Divisional Personal Officer, South Eastern Central Railway, Bilaspur (C.G.)

Shri Rajeev Shrivastava, learned counsel for the petitioner.
Shri Amit Choudhary, learned Standing Counsel for Railways.

ORAL ORDER
(Passed on 17.07.2006)

The following oral order of the Court was passed by **S.R.NAYAK, C.J.**

The petitioner was initially appointed as casual gangman vide order dated 14.2.90. His appointment was subject to condition that the working certificate/past service certificate produced by him, if found false, his appointment would be terminated at any time and without any notice. It so happened that after his initial appointment w.e.f. 14.2.90, the past service certificate produced by the petitioner was found to be a fake. That led to the termination of the services of the petitioner vide order dated 29.8.1990. In the meanwhile, F.I.R. under Section 420 I.P.C. for cheating and forgery was also lodged against him. The name of the petitioner was kept in the black list and the recruiting agency directed all recruiting

agencies in the Railway Administration not to engage the services of the petitioner in any capacity anywhere. This direction issued by the recruiting agency was allowed to become final. When the matter stood thus, it appears that the petitioner taking advantage of an order made by the Central Administrative Tribunal (C.A.T.) dated 12.3.1997 passed in O.A.No.357/1991 and O.A.No.768/1991, moved an application being O.A.No.408/2004 before it. The C.A.T. by its order dated 13.5.2004, disposed of this O.A. without notice to the respondent-Authorities, directing that if the petitioner makes a representation, the same should be considered by the respondents within a stipulated time. Accordingly, the petitioner made a representation to Senior Divisional Personnel Officer (Railway), 3rd respondent herein, who dismissed the representation of the petitioner for appointment vide order dated 28.1.2005.

2. The petitioner feeling aggrieved by the above order of the third respondent, again filed Original Application No.383/2005. The said O.A. was also dismissed by the C.A.T. by its order dated 8.3.2005 both on merit as also on the ground of delay and laches. Hence, this writ petition by the aggrieved petitioner.

3. We have heard learned counsel for the parties and perused the material papers appended to the writ petition. The main contention of the

learned counsel for the petitioner was that the C.A.T. ought to have appreciated the fact that the similarly circumstanced other employees have been given appointments in pursuance of a direction issued by the C.A.T. vide its order dated 12.3.1997 in O.A.No.357/1991 and O.A.No.768/1991, and therefore, similar treatment should have been meted out to the petitioner also, and the refusal of the respondents to extend similar treatment would tantamount to an invidious discrimination violating Article 14 postulates. It was also contended that the third respondent, before terminating the services of the petitioner on 29.8.1990 did not give any opportunity to the petitioner to have his say in the matter.

4. Having heard learned counsel for the parties, we do not find any merit in the writ petition. Before us, it is not disputed by the learned counsel for the petitioner that the past service certificate produced by the petitioner was found to be a fake and the recruiting agency had directed all Divisions of the Indian Railways not to offer any employment to the petitioner in future in any capacity. The said direction issued by the recruiting agency was not challenged by the petitioner in any legal proceeding. The petitioner after a lapse of nearly 15 years, without any explanation whatsoever for inordinate delay in moving the application before the C.A.T., sought a direction from the C.A.T. to the third respondent to extend similar treatment in terms of the direction issued by

the C.A.T. in its order dated 12.3.1997 made in O.A.No.357/1991 and O.A.No.768/1991 filed by some of the similarly circumstanced employees. The C.A.T. has specifically dealt with that request in its order and according to us quite rightly placing reliance on the judgment of the Apex Court in **Bhoop Singh vs. Union of India and others**[1] *refused the relief* to the petitioner on the ground that the petitioner is guilty of a serious delay and laches. In addition, it needs to be noticed that the applicants in O.A.No.357/1991 and O.A.No.768/1991 and the petitioner cannot be treated as equals for extending the benefit of the order dated 12.3.1997 made in O.A.No.357/1991 for the simple reason that whereas the applicants in O.A.No.27/99 and O.A.No.323/99 were diligent in asserting their rights and seeking legal remedies, the petitioner herein slept over the matter for 14 long years, and he was sitting on fence all the time waiting for the result of the previous litigation initiated by similarly circumstanced employees. Even after the judgment came, roughly for 7 years, the petitioner again slept over the matter. Therefore, in our considered opinion, the C.A.T. is justified in refusing relief to the petitioner the ground of delay and laches.

5. On merit too, the petitioner has no ground to succeed. As already pointed out (supra), the fact that the past service certificate produced by

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1, (1992) 3 SCC 136.

the petitioner was found to be a fake and the recruiting agency had directed all Divisions in the Railways not to appoint the petitioner in any capacity, is not seriously disputed before us. The discretionary remedy under Article 226 of the Constitution of India cannot be extended to help such a person who is guilty of a serious misconduct.

6. Looking from any angle, this is not a case where we should step in under Article 226 of Constitution and interfere with the impugned order of the C.A.T. Writ Petition fails and it is accordingly dismissed. No costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani